

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

KANG LU,

Plaintiff,

v.

EXECUTIVE OFFICE OF PUBLIC SAFETY
AND SECURITY (EOPSS); TERRENCE REIDY,
in his official capacity as Secretary of EOPSS;
OFFICE OF THE ATTORNEY GENERAL; and
ANDREA JOY CAMPBELL, in her official
capacity as Attorney General of Massachusetts,

Defendants.

CIVIL ACTION
NO. 1:23-cv-12045-AK

**DEFENDANTS' PARTIALLY ASSENTED-TO MOTION FOR EXTENSION OF TIME
TO FILE OPPOSITION TO APPLICANTS' MOTION TO JOIN AS PARTIES**

Pursuant to Fed. R. Civ. P. 6(b)(1), Defendants – Executive Office of Public Safety and Security (“EOPSS”), Terrance Reidy, in his official capacity as Secretary of EOPSS, the Office of the Attorney General, and Andrea Joy Campbell, in her official capacity as Attorney General of Massachusetts – hereby move to extend their time to file an opposition to Plaintiffs’ Motion and Memorandum to Join as Parties (“Motion to Join”) until December 28, 2023. The grounds for the motion are set forth below.

1. This matter is an action for declaratory judgment aimed at preventing the Commonwealth from prosecuting the Plaintiff, Kang Lu, in the future for unlicensed possession of firearms under Mass. G.L. c. 269, § 10. *See* ECF No. 1.
2. Plaintiff filed the Complaint in this matter on September 1, 2023. ECF No. 1.

3. On October 31, 2023, the Defendants filed a motion to dismiss, which is currently pending before the Court. ECF No. 30.
4. On November 14, 2023, the following nine individuals jointly filed a Motion to Join as plaintiffs in this matter: Christopher J. Colby, Kevin Michael Kiley, Gabriel Kishinevski, Sarah Carey, Regina Roy, R. Susan Woods, Frank Staples, James J. O'Brien III, and Jason Gerhard (collectively "Applicants"). ECF No. 34. Each Applicant is proceeding as a pro se litigant. ECF No. 34.
5. On November 14, 2023, the Plaintiff filed Plaintiffs' Motions and Supporting Memorandum Opposing Defendants' Motion to Dismiss and for Summary Judgment. ECF No. 35. The Applicants are signatories to the Plaintiff's motion for summary judgment, *see* ECF No. 35, but have yet to be added as parties to this action, *see* Docket.
6. The Defendants' response to the Plaintiff's motion for summary judgment is due December 5, 2023. L.R. 7.1(b)(2).
7. The Defendants seek additional time to respond to Applicants' Motion to Join. In addition to preparing the Defendant's opposition to the Plaintiff's motion for summary judgment in this matter, undersigned counsel is attending to other pressing matters, including the following: preparing an appellate brief, due December 8, 2023, in *Donovan Bouzan v. Jeffers*, Mass. App. Ct., No. 2023-P-0031; and preparing an opposition to a motion for judgment on the pleadings, due December 20, 2023, in *Liang v. Department of Early Education and Care*, Suffolk Super. Ct., No. 2384CV00868. Undersigned counsel also has a prescheduled vacation from

November 21, 2023, until November 26, 2023, and a preexisting professional commitment on November 27 and 28, 2023.

8. On November 20, 2023, undersigned counsel emailed the Applicants to request their assent to a 45-day extension to file an opposition to their Motion to Join. Following consideration of responses from those who responded to said email, counsel emailed the Applicants on November 21, 2023, modifying the request for assent to a 30-day extension.
9. The following two Applicants assent to the requested extension: Jason Gerhard and Kevin M. Kiley.
10. The following four Applicants do not assent to the requested extension: Sarah Carey, Gabriel Kishinevski, James J. O'Brien, III, and Frank Staples.
11. As of the time of this filing, the remaining three Applicants – Christopher J. Colby, Regina Roy, and R. Susan Woods – have not responded to counsel's emails requesting an extension.
12. The Plaintiff assents to the Defendants' requested extension.

For the foregoing reasons, the Defendants respectfully request that the Court extend their time to file an opposition to Applicant's Motion to Join by an additional 30 days, until December 28, 2023.

Respectfully submitted,

EXECUTIVE OFFICE OF PUBLIC SAFETY
AND SECURITY (EOPSS), and TERRENCE
REIDY, in his official capacity as Secretary of
EOPSS; OFFICE OF THE ATTORNEY
GENERAL, and ANDREA JOY CAMPBELL, in
her official capacity as Attorney General of
Massachusetts,

By their attorney,

ANDREA JOY CAMPBELL
ATTORNEY GENERAL

/s/ Angélica L. Durón
Angélica L. Durón, BBO# 705315
Assistant Attorney General
Government Bureau
Office of the Attorney General
One Ashburton Place
Boston, MA 02108
(617) 963-2367
Angelica.Duron@mass.gov

Dated: November 21, 2023

CERTIFICATE PURSUANT TO LOCAL RULE 7.1(a)(2)

I, Angélica L. Durón, Assistant Attorney General, hereby certify that on November 21, 2023, I spoke with Kang Lu, the pro se Plaintiff in this matter, by phone and discussed the foregoing motion. Plaintiff stated his assent to this motion.

On November 20, and 21, 2023, I emailed the Applicants requesting each Applicant's assent to the foregoing motion. Jason Gerhard and Kevin M. Kiley stated their assent to this motion. Despite a good faith effort, I was unable to resolve the issue set forth in this motion with Sarah Carey, Gabriel Kishinevski, James J. O'Brien, III, and Frank Staples. Despite reasonable efforts to reach all Applicants, I was unable to confer with Christopher J. Colby, Regina Roy, and R. Susan Woods.

/s/ Angélica L. Durón
Angélica L. Durón, BBO# 705315
Assistant Attorney General

Dated: November 21, 2023

CERTIFICATE OF SERVICE

I hereby certify that this document filed electronically through the CM/ECF system will be sent electronically to registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent by first class mail to those indicated as non-registered participants on November 21, 2023:

Plaintiff:

Kang Lu
106 Sewall Ave. # 3
Brookline, MA 02446
libertywithoutlicense@gmail.com

Applicants:

Sarah Carey, *pro se*
26 East Street
Hadley, MA 01035

James J. O'Brien III, *pro se*
1 Hardy Road Suite 355
Bedford, NH 03110

Christopher J. Colby, *pro se*
118 Maple Street
Easthampton, MA 01207

Regina Roy, *pro se*
911 Main Street
Holyoke, MA 01040

Jason Gerhard, *pro se*
107 North Main Street
Concord, NH 03301

Frank Staples, *pro se*
332 Merrimack Street
Manchester, NH 03103

Gabriel Kishinevski, *pro se*
26 East Street,
Hadley, MA 01035

R. Susan Woods, *pro se*
P.O. Box 160
Hadley, MA 01035

Kevin Michael Kiley, *pro se*
712 E. 1st Ave. # 6
St. John, KS 67576

/s/ Angélica L. Durón
Angélica L. Durón, BBO# 705315
Assistant Attorney General